

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5235
Republican Party of Arkansas,)
and Lloyd E. Lindsey, as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe the Republican Party of Arkansas, and Lloyd E. Lindsey, as treasurer ("Respondents") violated 2 U.S.C. §§ 441a(f), 434(b)(3)(B), 434(b)(3)(A), 434(b)(1), 434(b)(2), 434(b)(4), and 441b. In addition, the Commission found reason to believe that Respondents violated 11 C.F.R. §§ 104.10(b)(4), 102.5(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.

22-04-406-0520

IV. The pertinent facts in this matter are as follows:

1. Republican Party of Arkansas is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Lloyd E. Lindsey is the current treasurer of the Republican Party of Arkansas, and was not the treasurer at the time of the activity addressed in this Agreement.

3. No candidate or political committee shall knowingly accept any contribution in violation of the provisions of 2 U.S.C. § 441a(f). No person shall make a contribution to a political committee in any calendar year which, in the aggregate, exceeds \$5,000. 2 U.S.C. § 441a(a)(1)(C).

4. Contributions which on their face exceed the contribution limitations, and those which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor may be either deposited into a campaign depository or returned to the contributor.

11 C.F.R. § 103.3(b)(3). If any such contribution is deposited, the treasurer may request reattribution of the contribution by the contributor in accordance with 11 C.F.R.

§§ 110.1(b), 110.1(k), or 110.2(b), as appropriate. If a reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. *Id.*

5. Respondents received contributions from three individuals which exceeded the limitation by \$9,500.

22-04-406-0522

6. The excessive contributions were not reattributed or redesignated within the 60-day periods permitted by 11 C.F.R. §§ 110.1(b)(5)(ii)(B) or 110.1(k)(3)(ii)(B). Nor were the contributions refunded within the 60-day period permitted by 11 C.F.R. § 103.3(b)(3).

7. Committees are required to report the identification of each political committee which makes a contribution during the reporting period, together with the date and the amount of the contribution. 2 U.S.C. § 434(b)(3)(B).

8. Respondents failed to itemize nine contributions from political committees which totaled \$36,625, and failed to file amended Schedules A to correct the errors.

9. The treasurer of a committee is responsible for keeping an account of the identification of any person who makes a contribution of more than \$200 during the calendar year. 2 U.S.C. § 434(b)(3)(A).

10. Respondents failed to disclose contributions from 11% of individual contributors, and failed to correct all identification disclosure errors on amended Schedules A.

11. The treasurer of a political committee is responsible for disclosing the amount of cash on hand at the beginning of the reporting period and the total amount of receipts and disbursements for the reporting period. 2 U.S.C. §§ 434(b)(1), 434(b)(2), and 434(b)(4).

12. Respondent misstated its bank activity from January 1, 1997 to December 31, 1998 for receipts, disbursements and cash on hand balances, and failed to file amended Schedules A and B.

2250-904-40-22

13. Each political committee, including a party committee, which finances political activity in connection with both federal and non-federal elections is required to establish a separate federal account for all disbursements, contributions, expenditures and transfers by the committee in connection with any federal election, unless it receives only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. §§ 102.5(a)(1)(i) and (ii).

14. Committees that have established separate federal and non-federal accounts under 11 C.F.R. §§ 102.5(a)(1)(i) or (b)(1)(i) shall pay the expenses of joint federal and non-federal activities as follows: (1) the committee shall pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense, or (2) the committee shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.

11 C.F.R. §§ 106.5(g)(1)(i) and (ii).

15. The State of Arkansas allows corporations and labor organizations to contribute up to \$1,000 per state election. 2001 Ark. Acts 1839. Corporate and labor organization contributions and expenditures are prohibited in connection with a federal election. 2 U.S.C. § 441b(a).

16. Respondents made \$602,064.78 in direct payments from its non-federal account to vendors for shared advertising and polling expenses.

22-04-406-0523

17. Respondents deposited corporate contributions into its non-federal account and made disbursements from the non-federal account for shared advertising and polling expenses.

18. Respondents failed to report that it made allocable expenditures for advertising and polling disbursements from its non-federal account on Schedules H-4.

19. Respondents made disbursements from its non-federal account totaling \$8,689 directly to vendors for shared administrative expenses.

20. Respondents deposited corporate contributions into its non-federal account and made disbursements from the non-federal account for shared administrative expenses.

21. Respondents failed to report these administrative expenditures on Schedules H-4.

22. Respondents failed to provide documentation to support an allocation percentage for one fundraising event.

23. Respondents under-transferred the allowed amount from its non-federal account to its federal account for the correct share of administrative expenses by a total of \$287,210.00. After reconciling amounts over-transferred from the non-federal account in other areas, including transfers that were not made for certain allocable activity, Respondents federal account overpaid its share of allocable activity by \$160,235.02 for the two-year election cycle.

4250-904-40-22

V. Respondents admit the following:

1. Respondents accepted excessive contributions in violation of 2 U.S.C. § 441(a)(f).
2. Respondents failed to itemize contributions from political committees in violation of 2 U.S.C. § 434(b)(3)(B).
3. Respondents failed to correctly disclose contributions from individuals in violation of 2 U.S.C. § 434(b)(3)(A).
4. Respondents misstated financial activity in violation of 2 U.S.C. § 434(b)(1), 434(b)(2), and 434(b)(4).
5. Respondents failed to itemize advertising and polling disbursements shared from the non-federal account in violation of 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.10(b)(4).
6. Respondents failed to itemize administrative disbursements shared from the non-federal account in violation of 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.10(b)(4).
7. Respondents made allocable expenditures from its non-federal account in violation of 2 U.S.C. § 441b and 11 C.F.R. § 102.5.
8. Respondents failed to provide documentation to support an allocation of disbursements for one fundraising event and ultimately violated 2 U.S.C. § 434 (b) (4) and 11 C.F.R. Sec. 104.10(b) (4).

VI. Respondents agree to pay a civil penalty to the Federal Election Commission in the amount of \$45,000 (Forty-Five Thousand Dollars).

VII. Respondents will provide written documentation that they have rectified the excessive nature of the contributions.

22-04-406-0525

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

BY: 

10/0/02
Date

FOR THE RESPONDENTS:


Craig Engl,
Attorney for Respondents

24 Sep 02
Date

22-04-406-0526